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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH DORSA,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.  
----- x

08 Civ. 1209 (RWS) (JCF)  
ECF Case

**ANSWER**

Defendant the United States of America, by its attorney, Michael J. Garcia, United States Attorney for the Southern District of New York, answers the complaint of plaintiff Joseph Dorsa (“plaintiff”) upon information and belief as follows:

1. Paragraph 1 of the complaint sets forth plaintiff’s jurisdictional and venue allegations, to which no response is required.
2. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 of the complaint.
3. Denies the allegations in paragraph 3 of the complaint, but admits that the Veterans Affairs New York Harbor Healthcare System (“VANYHHC”) is administered by the

United States Department of Veterans Affairs, which is a department of defendant the United States of America.

4. Admits the allegations in paragraph 4 of the complaint and avers that defendant, through the VANYHHC, supplies health and medical services to eligible veterans.

5. Admits the allegations in paragraph 5 of the complaint, except denies the allegation that VANYHHC holds itself out to the general public as a medical and/or health institution and facility, and avers that the VANYHHC supplies health and medical services to eligible veterans.

6. Admits the allegations in paragraph 6 of the complaint.

7. Admits the allegations in paragraph 7 of the complaint to the extent that the term “defendants” refers to the defendant in this case, the United States of America.

8. Admits the allegations in paragraph 8 of the complaint.

9. Admits the allegations in paragraph 9 of the complaint.

10. Admits the allegations in paragraph 10 of the complaint.

11. Denies the allegations in paragraph 11 of the complaint.

12. Denies the allegations in paragraph 12 of the complaint.

13. Denies the allegations in paragraph 13 of the complaint.

14. Admits the allegation in paragraph 14 of the complaint that plaintiff filed an administrative claim with the United States on Form SF-95, denies that said administrative claim was filed on or about June 28, 2007, and avers that said administrative claim was filed on or about July 31, 2007.

15. Admits the allegations in paragraph 15 of the complaint.

16. Denies the allegations in paragraph 16 of the complaint and avers that the time limit within which plaintiff must file suit has not commenced because defendant has not rendered a determination on plaintiff's administrative claim.

FIRST DEFENSE

Any injuries or damages to plaintiff were sustained without any negligence or fault or want of due care by defendant

SECOND DEFENSE

Any injuries or damages sustained by plaintiff were not proximately caused by a negligent act or omission of defendant.

THIRD DEFENSE

Pursuant to 28 U.S.C. § 2675(b), plaintiff's recovery, if any, may not exceed the amount presented in his administrative claim.

FOURTH DEFENSE

In the event plaintiff recovers a judgment against defendant, such judgment must be reduced pursuant to the collateral source statute, N.Y. CPLR § 4545(c).

FIFTH DEFENSE

In accordance with N.Y. CPLR Article 14A, defendant reserves the right to assert upon trial of this matter, in mitigation of damages, any culpable conduct attributable to plaintiff.

WHEREFORE, defendant demands judgment dismissing the complaint and granting such other and further relief as this Court deems proper, including costs and disbursements.

Dated: New York, New York  
May 14, 2008

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